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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,797	12/11/2001	Gholam-Reza Zadno-Azizi	VGEN.006A	2037
20995	7590	01/29/2004	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP			JACKSON, SUZETTE JAMIE	
2040 MAIN STREET			ART UNIT	PAPER NUMBER
FOURTEENTH FLOOR				
IRVINE, CA 92614			3738	<i>16</i>

DATE MAILED: 01/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<i>Office Action Summary</i>	Application No.	Applicant(s)
	10/021,797	ZADNO-AZIZI ET AL. <i>GW</i>
Examiner	Art Unit	
Jackson J Suzette	3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 04 November 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1 and 3-17 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 4 and 9-17 is/are allowed.

6)  Claim(s) 1,3,7,14 and 15 is/are rejected.

7)  Claim(s) 5,6 and 8 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a)  The translation of the foreign language provisional application has been received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 14 .  
4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

**DETAILED ACTION**

1. Applicant's amendments dated 8/4/03 and 11/4/03 have been received in application serial number 10/021,797. Claim 2 has been canceled.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3, 7, 14 and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over by Isreal 6,013,101 in view of Kurilov RU 2014038. Isreal discloses the invention as claimed comprising: An IOL having a optical axis (38) with a first optic (14); and first and second translation members extending from the first optic (22); and wherein upon implantation of the lens in an eye and in response to a force by the ciliary muscle of the eye the translation embers translate substantially along the optical axis (see col. 11, lines 53-55 and col. 4, lines 19-27)

however Isreal does not teach a shape memory material. Kurilov RU 2014038 teaches an IOL that utilizes the material nickel-titanium alloy (see abstract line 4). It would have been obvious to one having ordinary skill in the art at the time the invention was made to take the translation members of Isreal and make them from the shape memory material as taught by Kurilov because the material would further help the members to return to respond to shape changes during the response to a force by the ciliary muscle of the eye. See col. 3, lines 51-56, col. 4, lines 20-23.

*Allowable Subject Matter*

5. Claims 5-6, and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 4 and 9-17 are allowed.

*Conclusion*

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
8. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzette J. Jackson whose work schedule is Monday-Friday 9-6:30 off every other Friday and whose telephone number is 703-308-6516.
10. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306.
11. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

  
Suzette J. Jackson  
22 January 2004

  
David H. Willse  
Primary Examiner